

**OPINION SUMMARY**  
**MISSOURI COURT OF APPEALS EASTERN DISTRICT**

**DIVISION TWO**

CARLOS ROBERTS,	) No. ED102437
	)
Movant/Appellant,	) Appeal from the Circuit Court of
	) the City of St. Louis
vs.	)
	) Honorable Thomas J. Frawley
STATE OF MISSOURI,	)
	)
Respondent.	) Filed: October 6, 2015

Carlos Roberts (Movant) appeals the judgment of the Circuit Court of the City of St. Louis denying his Rule 29.15 motion for post-conviction relief without an evidentiary hearing. In his sole point relied on, Movant claims that the motion court clearly erred by denying his motion without an evidentiary hearing because he alleged unrefuted facts that he was denied effective assistance of appellate counsel. Specifically, Movant alleges that appellate counsel unreasonably failed to claim on direct appeal that the trial court erred by refusing to instruct the jury on a lesser-included offense of voluntary manslaughter and that, had appellate counsel raised this claim, the appellate court likely would have granted a new trial.

AFFIRMED.

Division II Holds: Movant failed to meet his burden of pleading unrefuted facts that would entitle him to post-conviction relief. Accordingly, the motion court did not err by denying Movant's Rule 29.15 motion for post-conviction relief without an evidentiary hearing.

Opinion by: Philip M. Hess, P.J.  
Gary M. Gaertner, Jr., J. and Angela T. Quigless, J. concur.

Attorney for Appellant: Timothy J. Forneris

Attorney for Respondents: Shaun J. Mackelprang

<b>THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.</b>
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